

Criminal Justice and Public Safety

PUBLIC 22 **An Act To Make Sexual Exploitation of Minors a Crime
Compensable by the Victims' Compensation Board** **LD 218**

<u>Sponsor(s)</u> DIAMOND		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-21
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Public Law 2005, chapter 22 makes sexual exploitation of minors a crime compensable by the Victims' Compensation Board.

PUBLIC 53 **An Act To Allow the Part-time Assignment of State Police Officers
to Municipalities** **LD 102**

<u>Sponsor(s)</u> BLANCHETTE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-97
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Public Law 2005, chapter 53 clarifies current law by making it clear that the Chief of the State Police may provide police services to requesting municipalities on a full-time or part-time basis by assigning one or more officers. The municipality must pay the cost of providing the assigned officer or officers. Public Law 2005, chapter 53 also makes explicit that a municipality may contract with the State Police or a sheriff's department for law enforcement services, including, but not limited to, enforcement of local ordinances.

PUBLIC 63 **An Act To Amend the Crime of Escape** **LD 984**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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Public Law 2005, chapter 63 clarifies that the Maine Revised Statutes, Title 17-A, section 755, subsection 1-D addresses 2 post-arrest escapes: an unauthorized departure from custody following an arrest prior to being transported from the scene and an unauthorized departure following an arrest while being transported to an initial place of detention or a courthouse. A courthouse is expressly included to cover an escape from a court-ordered arrest in which the court has ordered the person to be brought directly before the court following the arrest. The reference to "or any other facility enumerated in subsection 3" is removed, because subsection 3 includes facilities not relevant to the post-arrest escapes addressed in subsection 1-D. Public Law 2005, chapter 63 also specifies that the culpable state of mind element, "intentionally," must accompany the prohibited conduct, which is consistent with all the other forms of escape described in Title 17-A, section 755.

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PUBLIC 68 **An Act To Expand the Home-release Monitoring Program for a Person with a Terminal Illness** **LD 348**

<u>Sponsor(s)</u> GERZOFSKY STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-120
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Public Law 2005, chapter 68 amends the supervised community confinement program to expand the options for release to the community of a prisoner who is terminally ill when the release is medically appropriate. Public Law 2005, chapter 68 allows a prisoner to be transferred to a private residence with in-home medical hospice care, subject to approval by the Commissioner of Corrections. Public Law 2005, chapter 68 also amends the home-release monitoring program to expand the options for release to the community of a county jail inmate who is terminally ill when the release is medically appropriate. Public Law 2005, chapter 68 allows a county jail inmate to be transferred to a private residence with in-home medical hospice care, subject to approval by the sheriff.

PUBLIC 69 **An Act To Clarify the Law Regarding Unlawful Interference with Law Enforcement Dogs** **LD 53**

<u>Sponsor(s)</u> FISCHER DIAMOND	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-119
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Public Law 2005, chapter 69 makes 2 parallel changes to the Maine Revised Statutes, Title 17-A, section 752-B regarding interference with law enforcement dogs. First, it adds to each of the 2 offenses an element currently there by implication, which is that the dog intentionally or knowingly mistreated is in fact certified for law enforcement use. Second, Public Law 2005, chapter 69 eliminates from each of the 2 offenses the current element that the actor knows or should know of the dog's certification and replaces it with a requirement that the actor knows or should know that the dog is used for law enforcement purposes.

PUBLIC 72 **An Act to Prohibit Payment Card Skimming** **LD 83**

<u>Sponsor(s)</u> SNOWE-MELLO FLETCHER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-67
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Public Law 2005, chapter 72 creates the Class D crime of misuse of a scanning device or a reencoder. A person is guilty of misuse of a scanning device or a reencoder if the person intentionally or knowingly uses a scanning device or a reencoder without the permission of an authorized payment card user to capture encoded information from the user's payment card with the intent to defraud that authorized payment card user, the issuer of the authorized payment card user's payment card or another person.

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PUBLIC 87 An Act To Amend the Maine Juvenile Code

LD 242

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM MAJ	H-114
	ONTP MIN	H-125 FAIRCLOTH

Public Law 2005, chapter 87 provides that the statute of limitations does not apply for the juvenile crimes of unlawful sexual contact and gross sexual assault in cases where the victim had not attained 18 years of age at the time of the crime and the juvenile offender had attained 16 years of age, if the attorney for the State first presents evidence based on DNA to the court in a closed hearing that implicates the defendant in the crime by a preponderance of the evidence.

Public Law 2005, chapter 87 adds to the list of juvenile crimes for which prosecution must be commenced within one year after being committed the willful refusal to obey a court order resulting from a conviction of a crime for a violation of a provision of Title 12 or Title 29-A that is not specifically included in the list of juvenile crimes in Title 15, section 3103, subsection 1, paragraph E or F.

Public Law 2005, chapter 87 also amends the standard of proof so that juvenile crimes involving illegal drugs or drug paraphernalia and those involving intoxicating liquor that, if committed by an adult, would constitute civil offenses, are established by a preponderance of evidence rather than proof beyond a reasonable doubt.

PUBLIC 139 An Act To Clarify the Liquor Enforcement Laws

LD 620

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW	OTP-AM	H-179
BARTLETT		

Public Law 2005, chapter 139 allows the Commissioner of Public Safety to reach agreements with law enforcement agencies to authorize those agencies to enforce administrative sanctions against liquor licensees and the licensees' agents and employees. Public Law 2005, chapter 139 also allows the commissioner to authorize contract officers to perform the same function. The contract officers are exempt from the basic law enforcement training requirements.

PUBLIC 199 An Act To Prevent Camcorder Piracy

LD 834

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	H-259
DAVIS P		

Public Law 2005, chapter 199 makes camcorder piracy and receiving stolen property obtained through camcorder piracy a Class D crime. Camcorder piracy includes the necessary element that the purpose of the person filming is to make a copy of the motion picture. The value of any audio or visual recording that is unlawfully acquired is deemed to be more than \$500 but less than \$1,000, unless a higher value can be proven.

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Public Law 2005, chapter 199 also authorizes motion picture theater owners to detain a person suspected of camcorder piracy if there is probable cause to believe the person is unlawfully concealing part of or operating an audiovisual or audio recording function of any device in the motion picture theater while a motion picture is being exhibited, without the written consent of the motion picture theater owner. The purposes of detention include requiring the person being detained to provide identification, to verify the identification, to inform a law enforcement officer of the detention, to surrender that person to the officer and to take possession of and hold stolen merchandise or recordings and related equipment pending arrival of law enforcement.

PUBLIC 207 An Act To Make Technical Changes to the Maine Criminal Code

LD 983

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-323

Public Law 2005, chapter 207 makes a number of technical changes and corrections to the Maine Criminal Code.

1. The 121st Legislature amended the Maine Revised Statutes, Title 17-A, section 959 regarding illegal gambling machines to give the State the authority to order forfeiture of "any associated proceeds" of an illegal gambling machine. However, parallel changes to the procedural provisions in Title 17-A, section 959, subsections 3, 4, 5 and 6 were not made. Public Law 2005, chapter 207 corrects the omission.
2. Public Law 2005, chapter 207 replaces an outdated reference to former Title 17-A, section 1205, subsection 8 with a reference to current section 1205-C, subsections 5 and 6. Former Title 17-A, section 1205, subsection 8 was repealed by Public Law 1999, chapter 246.
3. Public Law 2005, chapter 207 corrects an oversight by adding "reckless conduct; assault" under the Maine Revised Statutes, Title 19-A, section 4011, subsection 4 to the provisions regarding the violation of a protective order under Title 17-A, section 506-B, which pertains to a person who is subject to a protective order issued under Title 19-A and violates that order. The Class C violation under Title 19-A, section 4011, subsection 4 was enacted in Public Law 2001, chapter 420, and the crime was never added to Title 17-A, section 506-B, which lists each type of protective order.
4. Public Law 2005, chapter 207 also clarifies the application of the increased good time authorized pursuant to Public Law 2003, chapter 711 by indicating that the new increases in good time apply only to crimes other than sex offenses and domestic violence offenses. For these crimes, as well as for murder, the prior good time provisions apply.

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PUBLIC 216 An Act To Improve the Role of Boards of Visitors for State Correctional Facilities

LD 417

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND GERZOFISKY	OTP-AM	S-194

Public Law 2005, chapter 216 does the following:

1. Provides 3-year terms for members of boards of visitors of correctional facilities with the initial terms staggered and specifies that at least one member of each board be a licensed provider of mental health services;
2. Prohibits an employee of the Department of Corrections from serving on a board of visitors;
3. Requires the Governor to appoint a chair for each board of visitors;
4. Clarifies the meeting and reporting responsibilities of the boards of visitors;
5. Provides that volunteer activities of a member of a board of visitors may be prescribed by departmental policies regarding volunteer activities generally; and
6. Creates an application provision to allow current board members who work for the Department of Corrections to continue to serve for a period of time after the enactment of the bill to allow for continuity of board work until new appointments are made.

PUBLIC 263 An Act Amending the Laws Regarding Persons Not Criminally Responsible by Reason of Insanity

LD 1517

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-448

Public Law 2005, chapter 263 replaces disparate references to the affirmative defense of insanity in the Maine Revised Statutes, Title 15, section 103 and in Title 17-A, sections 39 and 40 with the more accurate and understandable phrase "not criminally responsible by reason of insanity," which is consistent with the Maine Rules of Criminal Procedure, Rules 11(a)(1) and 11A(h) relative to the plea of insanity. Public Law 2005, chapter 263 also defines "not criminally responsible by reason of insanity," which clarifies that Title 15, section 103 has application to any insanity plea, finding or verdict stemming from former Title 15, section 102; current Title 17-A, section 39 or any earlier version of that section; former Title 17-A, section 58; or former section 17-B, chapter 149 of the Revised Statutes of 1954. Public Law 2005, chapter 263 amends Title 15, section 104-A by striking the words "acquitted by reason of insanity" and replacing them with a reference to Title 15, section 103, which directs a defendant's being committed following the acceptance of a negotiated insanity plea or following a verdict or finding of insanity. Public Law 2005, chapter 263 also identifies insanity as an affirmative defense and makes technical language changes to conform to legislative drafting guidelines.

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PUBLIC 264 An Act Regarding Criminal Use of an Electronic Weapon

LD 1271

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE DIAMOND	OTP-AM	H-449

Public Law 2005, chapter 264 criminalizes the intentional, knowing or reckless use of an electronic weapon by a person against another human being with 2 exceptions. First, the crime does not apply to the use of an electronic weapon by a law enforcement officer, corrections officer or corrections supervisor while engaged in the performance of public duty if an appointing authority has authorized such use of an electronic weapon under the circumstance. Second, the crime does not apply to the use of electronic weapons by persons when legally entitled to employ deadly force to protect themselves or 3rd persons pursuant to the Maine Revised Statutes, Title 17-A, section 108, subsection 2 or to defend their dwelling places pursuant to Title 17-A, section 104, subsections 3 and 4. Criminal use of an electronic weapon is a Class D crime. "Electronic weapon" is defined as a weapon "designed to have a disabling effect upon human beings." The definition is intended to include, but not be limited to, stun gun weapons, such as Tasers.

PUBLIC 265 An Act To Amend the Sentencing Laws EMERGENCY

LD 1505

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND BLANCHETTE	OTP	

Public Law 2005, chapter 265 codifies the recommendations of the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners, which was established pursuant to Public Law 2003, chapter 451 and Public Law 2003, chapter 707.

Public Law 2005, chapter 265 does the following.

1. It amends the provision regarding authorized sentences to specify that a fine may be imposed along with any other sentencing alternative, except unconditional discharge, deferred disposition and a fine with administrative release. It also creates a new authorized sentence by allowing the court to impose a sentencing alternative that includes a split sentence of imprisonment with administrative release as authorized in Title 17-A chapter 54-G.
2. It amends Title 17-A, §1172, sub-§1 regarding victim notification by adding a reference to "deferred disposition" and by enacting a new provision that imposes a new duty on the attorney for the State when practicable to make a good faith effort to inform a crime victim of the right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release.
3. It enacts Title 17-A, §1174-A, which imposes a new duty on the attorney for the State after receiving notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release to disclose to the court any attempts made to notify the victim of the motion and any objection to the motion by the victim. It also provides the victim a right to be heard

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on the motion in the event that a hearing is held by the court and the victim is physically present in the courtroom.

4. It amends Title 17-A, §1201, sub-§1, ¶A-1 by enacting a new sub-¶(1) authorizing probation following conviction for certain Class D and Class E crimes relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode, and as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not never been placed on probation pursuant to this sub-¶. The availability of probation provides the impetus for the attorney for the State to forego the felony in favor of a misdemeanor disposition.
5. It also enacts a new sub-¶(4) to ¶A-1 authorizing probation following conviction for a Class D crime of stalking. Currently, probation is authorized for Class D stalking only if committed against a family or household member. It enacts a new sub-¶(6) to ¶A-1 authorizing probation following conviction for a Class D crime in Title 17-A, chapter 45 relating to a schedule W drug. Finally, it enacts a new sub-¶(7) to ¶A-1 authorizing probation following a conviction for a Class D or E crime under Title 29-A, §2411, sub-§1-A, ¶B (repeat OUI offender).
6. It amends Title 17-A, §1202, sub-§2 by imposing on a person on probation the duty to bring a motion pursuant to the subsection if the probationer, at any time during the period of probation, cannot meet a requirement imposed by the court or a community reparations board.
7. It amends Title 17-A, §1202, sub-§2-A regarding probation conversion in 3 ways. First, the word "application" is replaced by the word "motion," which more accurately describes the process for modification. Second, a court is authorized to convert a period of probation imposed for the Class C crime of operating after habitual offender revocation, pursuant to Title 29-A, §2557, to a period of administrative release. Third, a conversion from probation to administrative release by a court sought by the probationer, the probation officer or the court on its own motion is made contingent upon notice of the motion being provided to the attorney for the State as well as the probation officer.
8. It amends Title 17-A, §1202, sub-§3 regarding probation termination in 2 ways. Again the word "application" is replaced by the word "motion." Second, a termination of probation and discharge by a court sought by the probationer, the probation officer or the court on its own motion is made contingent upon notice of the motion being provided to the attorney for the State as well as the probation officer.
9. It enacts Title 17-A, §1348-A, sub-§3, which imposes on the person granted a deferred disposition the duty to bring a motion pursuant to §1348-A, sub-§2 if, at any time during the period of deferment, the person cannot meet a deferment requirement imposed by the court.
10. It amends Title 17-A, §1348-B, sub-§ 1 in 2 ways. First, it clarifies which party has the burden of proof and what that burden is by expressly providing that at the hearing on final disposition at the conclusion of the period of deferment the person granted a deferred disposition must demonstrate compliance with the court-imposed deferment requirements by a preponderance of the evidence. Second, it changes current law by providing that in the event the person granted a deferred disposition meets the person's burden of proof, the sentence to be imposed by the court is any sentence alternative authorized for the crime that was either agreed to in writing at the time the sentencing was originally deferred or as amended by agreement of the parties in writing subsequently but prior to the actual sentence being imposed instead of immediate disposition of unconditional discharge.
11. It amends Title 17-A, section 1348-B, subsection 2 to clarify which party has the burden of proof by expressly providing that at the hearing on the State's motion to terminate the remainder of the period of

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deferment and impose sentence the State must demonstrate that the person granted a deferred disposition has inexcusably failed to comply with a court-imposed deferment requirement.

12. It amends Title 17-A, §1348-B, sub-§5, repeals §1348-B, sub-§6 and enacts §1348-B, sub-§7, simplifying the summons process and the arrest warrant process for persons on deferred disposition. To obtain the presence of the person granted a deferred disposition at the hearing on final disposition at the conclusion of the period of deferment, the summons process is contemplated. If the person fails to appear after having been served with a summons, the court may then issue a warrant of arrest of the person. To obtain the presence of the person granted a deferred disposition at the hearing on the State's motion to terminate the remainder of the period of deferment and impose sentence, both the arrest warrant process and the summons process are available to the State in order to obtain the appearance of the person.
13. It enacts Title 17-A, §1349-A, sub-§2-A, which imposes on the person placed on administrative release the duty to bring a motion under section 1349-A, subsection 2 if, at any time during the period of administrative release, the person cannot meet a requirement of administrative release imposed by the court.
14. It amends Title 17-A, section 1349-B, subsection 1 in 2 regards. First, it includes a reference to the Class C crime of operating after habitual offender revocation, pursuant to Title 29-A, section 2557, as a crime for which, following conviction, the person is eligible for a sentence alternative that includes a period of administrative release. Second, it creates the new sentencing alternative of a split sentence of imprisonment with administrative release.
15. It amends Title 17-A, §1349-D to simplify the summons process and the arrest warrant process for persons on administrative release. To obtain the presence of a person who was placed on administrative release at the hearing on the motion to revoke administrative release filed by the State, both the summons process and the arrest warrant process are available to the State.
16. It amends Title 19-A, §4002, sub-§4 to expressly make the definition of "family and household members" contained therein applicable to: Title 17-A, §1201, eligibility for probation; §1202, period of probation; and §1253, calculation of period of imprisonment.
17. It enacts Title 34-A, §5402, sub-§3, ¶F, which empowers the Commissioner of Corrections to provide for necessary assessment and supervision procedures and direct the use of adult probation resources and staff to the management of adult probationers with a high risk of offending.
18. It amends Title 34-A, §5404, sub-§3, ¶A relative to supervision of persons by probation and parole or intensive supervision program officers by providing that the purpose of supervision of each person placed under the officer's supervision is to ensure that departmental resources are directed to the management of persons with a high risk of reoffending.

Public Law 2005, chapter 265 was enacted as an emergency measure effective May 31, 2005.

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PUBLIC 288 An Act To Amend the Maine Criminal Code Regarding Deferred Disposition and Administrative Release

LD 1356

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP	H-536 BLANCHETTE

Public Law 2005, chapter 288 authorizes the court to impose on a defendant an order to pay an administrative supervision fee of not less than \$10 and not more than \$50 per month, as determined by the court, to the appropriate county in cases in which the court grants administrative release or deferred disposition.

PUBLIC 292 An Act To Strengthen the Penalties for Furnishing Alcohol to or Allowing Consumption of Alcohol by Minors

LD 903

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM MAJ	S-237
BLANCHETTE	OTP-AM MIN	

Public Law 2005, chapter 292 does the following:

1. Increases from less than 14 years of age to less than 18 years of age the age of a minor for purposes of penalizing the first offense of furnishing liquor to a minor. The penalty for this offense is a mandatory fine of \$500, none of which may be suspended;
2. Increases from \$500 to \$1,000 the fine for a 2nd offense of furnishing alcohol to a minor within a 6-year period, none of which may be suspended;
3. Increases from \$1,000 to \$1,500 the fine for a 3rd or subsequent offense of furnishing alcohol to a minor within a 6-year period, none of which may be suspended;
4. Increases from less than 14 years of age to less than 18 years of age the age of a minor for purposes of penalizing the first offense of allowing a minor to consume liquor. It also increases the fine for this offense from \$500 to \$1,000, none of which may be suspended; and
5. Increases from \$500 to \$2,000 the fine for a 2nd or subsequent offense of allowing consumption of alcohol by a minor, none of which may be suspended.

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PUBLIC 328 An Act To Amend the Statutes Relating to Juveniles

LD 1504

Sponsor(s)
DIAMOND
SYKES

Committee Report
OTP-AM

Amendments Adopted
S-289

Public Law 2005, chapter 328 makes the following changes to laws regarding juveniles.

1. It allows that juveniles who commit crimes under Title 12 and Title 29-A that are not defined as juvenile crimes be sentenced to a period of detention not to exceed 30 days if the court determines that such detention is appropriate based on certain criteria, including the nature of the crime and the person's history.
2. It prohibits a court from ordering attendant care for a juvenile without the consent of the county sheriff or the Department of Corrections, who fund this type of care.
3. It specifies the procedures that a law enforcement officer must follow when there is probable cause to believe that a juvenile has committed a juvenile crime that is the equivalent of a "civil violation." The section specifies that the juvenile must give the law enforcement officer evidence of name, age, address and date of birth, as adults are required to do, and the law enforcement officer cannot arrest the juvenile for the violation but can arrest the juvenile if the juvenile fails to provide the requested information.
4. It specifies the procedures that must be followed when a juvenile is arrested on a warrant, including notification to the juvenile community corrections officer, and the provisions for secure detention or release consistent with the purposes of detention in the Juvenile Code.
5. It adds a provision to eliminate duplicative probable cause determinations. If the juvenile court or another justice of the peace has established probable cause, no additional probable cause determination needs to be made related to detention for that offense.
6. It relaxes the current requirement that a juvenile cannot be held in excess of 24 hours, excluding weekends and holidays, in approved jail or other secure detention facilities used for adults. Public Law 2005, chapter 328 extends the time period from 24 hours to 48 hours, which is consistent with revised federal regulations.
7. It prohibits the detention of any juvenile arrested for non-juvenile offenses.
8. It specifies that the determination of credit already served by a juvenile is determined by the Department of Corrections.
9. It adds a provision similar to the adult provision for suspension of an operator's license for using a motor vehicle for drug trafficking, by specifying that a driver's license may not be suspended for more than one year following an adjudication for drug trafficking in which a motor vehicle was used.
10. It repeals a reference to a juvenile proceeding in current law under sexual abuse of a minor, which makes no sense since the crime can only be committed by persons at least 18 years of age.
11. It repeals a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group.

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12. It ensures appropriate mental health services be provided to juveniles who are detained and committed by expanding the possible range of mental health placements to less restrictive alternatives beyond psychiatric hospitalization. Public Law 2005, chapter 328 allows placement of a juvenile, with the juvenile's consent, in a licensed residential care facility providing a mental health treatment program as an alternative to psychiatric hospitalization.
13. It makes the provisions regarding juveniles held in observation status the same at Mountain View Youth Development Center as at Long Creek Youth Development Center, which includes constant staff observation if necessary to prevent imminent harm.
14. It specifies that the Commissioner of the Department of Corrections may issue arrest warrants for juveniles who violate provisions of community reintegration or aftercare status.
15. It makes technical changes to ensure that the statutory purposes of the Long Creek Youth Development Center and the Mountain View Youth Development Center are consistent.
16. It repeals a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group.

**PUBLIC 329 An Act To Improve the Management and Safety of State
Correctional Facilities**

LD 1360

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE	OTP-AM MAJ	H-597
CLUKEY	OTP-AM MIN	

Public Law 2005, chapter 329 proposes several changes to improve staff and prisoner safety at correctional facilities.

1. It moves from Title 28-A to Title 17-A the Class E crime of trafficking of alcoholic beverages in adult correctional facilities.
2. It specifies that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately. Currently, that authority exists only for inmates who commit crimes against corrections staff or institutional property.
3. It creates the new Class E crime of failure of institutional staff to report to an appropriate criminal justice agency that a person detained in that institution is the victim of a sexual assault. Institutional staff must report to an appropriate law enforcement agency any sexual assault that is committed against a person detained in that institution that occurred while the person was in the institution, whether the assault is committed by another staff person or by an another client or patient.
4. It amends the DNA collection statute to expand who is authorized to collect DNA samples by specifying that staff members of a county jail or Department of Corrections facility who are designated by the sheriff or jail administrator of that county jail or by the Commissioner of Corrections and are trained to collect biological samples may do so for purposes of DNA collection.
5. It authorizes adult correctional facilities to impose monetary sanctions as punishment for disciplinary offenses.

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6. It repeals a provision referring to special nursing rules regarding the administration of medication in Department of Corrections facilities. Apparently, there are no such rules.
7. It requires the Commissioner of the Department of Corrections, instead of each facility's chief administrative officer, to adopt rules for prisoners' accounts.
8. It creates a supervision fee payment provision for probationers and parolees transferred to Maine from other states that is analogous to the supervision fee payment provision for probationers placed under the supervision of the department by Maine courts.
9. It also amends current law to change archaic and inappropriate references.

PUBLIC 331 An Act Regarding the Maine Criminal Justice Academy

LD 1362

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE	OTP-AM	H-576

Public Law 2005, chapter 331 affects issues related to criminal justice training in the following ways.

1. It clarifies the general definitions of a corrections officer and law enforcement officer and adds new definitions for part-time law enforcement officer and part-time corrections officer. It requires the reporting year for law enforcement and corrections officers to be the calendar year, making reporting to the Maine Criminal Justice Academy consistent for criminal justice agencies.
2. It defines "transport officers," exempts them from the current basic training requirements and the mandatory policies for law enforcement agencies and mandatory annual reporting and specifies that they are subject to any statutory training requirements specific to that position.
3. It makes it a civil violation for a state or local government entity to violate or fail to comply with any of the requirements of the Maine Revised Statutes, Title 25, chapter 341.
4. It adds the Chief of the State Police as an ex officio member to the board of trustees and removes a commissioned officer of the State Police.
5. It expands the board of trustees' ability to set standards for and certify not only police chiefs, but all criminal justice executives.
6. It corrects an error enacted by the Second Special Session of the 121st Legislature regarding the implementation of a law enforcement policy and corrects a conflict.
7. It amends the basic law enforcement training course provision by requiring full-time law enforcement officers to successfully complete the basic training course in the first 12 months of initial employment. If that officer fails to satisfy the admission standards of the basic training course, the officer must meet all entrance standards and be approved by the Board of Trustees of the Maine Criminal Justice Academy before that officer is employed by any agency. Public Law 2005, chapter 331 also increases the extension of the 12-month period from 90 days to 180 days for cases involving extenuating circumstances and requires officers to do their training at the Maine Criminal Justice Academy.

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8. It requires the employing agency to notify the academy within 30 days of hiring or firing a law enforcement or corrections officer.
9. It requires the board of trustees to set standardized reimbursable training costs annually.
10. It extends from June 1, 2005 to June 1, 2006 the date by which law enforcement agencies must adopt policies regarding community sex offender notification and extends from January 1, 2006 to January 1, 2007 the date by which all law enforcement officers must be trained regarding the community sex offender notification policy.
11. It clarifies that the Maine Administrative Procedure Act must be used for all decertification procedures when an officer engages in prohibited conduct.
12. It makes minor technical changes and eliminates outdated language.

PUBLIC 345 An Act To Enhance the Prosecution of Child Pornography Cases LD 548

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM	H-577

Under current law, it is illegal to depict a person under 14 years of age in sexually explicit material. Public Law 2005, chapter 345 raises the age to under 16 years of age. Public Law 2005, chapter 345 also amends the permissible inference provision that, subject to Rule 303 of the Maine Rules of Evidence, authorizes one to draw an inference that the person depicted is an actual person.

PUBLIC 388 An Act To Ensure the Safety of Victims of Domestic Violence LD 1027
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER-SIMPSON	OTP-AM MAJ	H-531
SULLIVAN	ONTP MIN	

Public Law 2005, chapter 388 creates the definition of "confidential communications" in the Maine Revised Statutes, Title 16, section 53-B, which deals with privileged communications to a victim advocate. The purpose of the new definition is to clarify that a victim, advocate or advocate's agency may not be required to disclose or report personal identifying information of a victim of domestic violence to any agency, including the central reporting system of the Federal Government known as the Homeless Management Information System.

Public Law 2005, chapter 388 was enacted as an emergency measure effective June 14, 2005.

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PUBLIC 389 An Act To Improve the Collection of Restitution and Supervision Fees

LD 862

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE CLUKEY	OTP-AM	H-669

Public Law 2005, chapter 389 does the following:

1. Clarifies the obligation of offenders by requiring the court to be clearer when ordering restitution and, in cases of joint and several restitution orders, by giving the department and the district attorneys the ability to continue to collect from offenders and distribute money back to offenders. The court may deviate from joint and several liability in cases involving more than one defendant only if the court determines that a defendant should not equally share the burden of restitution;
2. Provides that if a tax refund is used to offset restitution owed to a crime victim, the collection fee may not be deducted from the amount owed to the victim;
3. Requires that supervision fees be ordered only once for concurrent crimes;
4. Clarifies issues regarding disbursement of fines to the courts; and
5. Provides that records pertaining to a crime victim's current address or location or from which the current address or location could be determined are confidential, except for current statutory exceptions.

The bill as amended was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

PUBLIC 393 An Act To Amend the Laws Governing Crimes against People Who Are Homeless

LD 1659

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY BRENNAN	OTP-AM MAJ OTP-AM MIN	H-595 H-640 DUDLEY S-354 BRENNAN

Public Law 2005, chapter 393 makes changes to law enforcement training provisions by specifying that the Board of Trustees of the Maine Criminal Justice Academy shall add to the basic training program and shall include in its next available recertification training requirements a block of instruction aimed specifically at reducing barriers to reporting crimes committed against persons who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless. Public Law 2005, chapter 393 directs the Commissioner of Public Safety and the Attorney General to review the relationship between law enforcement agencies and people who are homeless, explore methods of improving that relationship and consider ways to facilitate the designation by law enforcement agencies of at least one officer per agency to serve as a liaison between the law enforcement agency and the homeless community served by that agency.

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Public Law 2005, chapter 393 also requires the Office of the Attorney General to convene a working group to examine the advisability of implementing aggravating sentencing factors for crimes against people who are homeless.

PUBLIC 415	An Act To Protect Children Using Maine's Athletic Fields and Parks from Drug Dealers	LD 670
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOTHAM DAVIS P	OTP-AM	H-258 S-395 ROTUNDO

Public Law 2005, chapter 415 authorizes, but does not require, a municipality to post certain areas that minors frequent as “safe zones.” Safe zones are athletic fields, parks, playgrounds and recreational facilities. It is an aggravated offense to traffick, furnish or cultivate drugs within 1,000 feet of a safe zone. A municipality may designate a safe zone by posting an informational sign in a conspicuous place. The Commissioner of Public Safety shall establish uniform wording to be used on the signs and provide the wording to municipalities. The commissioner is not responsible for providing the signs.

PUBLIC 423	An Act To Amend the Sex Offender Registration and Notification Act of 1999	LD 1433
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE DIAMOND	OTP-AM	H-607 S-387 GAGNON

Public Law 2005, chapter 423 makes the following changes to the Sex Offender Registration and Notification Act of 1999.

1. It amends the application section to honor other jurisdictions' determinations with respect to the obligation of offenders to register. Specifically, it clarifies that the Act applies to persons sentenced at any time in jurisdictions other than Maine if those persons were required to register or would have been required to register in those other jurisdictions if they had remained there.
2. It makes registration requirements retroactive to persons sentenced for sex offenses or sexually violent offenses on or after January 1, 1982 and adds language necessary to implement this change.
3. It adds references to the sentencing alternative of administrative release, which was authorized by Public Law 2003, chapter 711.
4. It clarifies the definition of "prior conviction" and references to jurisdiction.
5. It removes language regarding the purpose of a risk assessment instrument to clarify that other agencies besides the Department of Corrections use the tool.
6. It clarifies that a registrant's home address must be the physical location of domicile or residence.

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7. It clarifies the registration process for persons convicted and sentenced in the State and those convicted and sentenced in another jurisdiction, including registration requirements for persons required to register in the State who are domiciled or residing outside the State.
8. It amends the violation and penalty section to specify that failure to comply with a duty imposed under the Sex Offender Registration and Notification Act of 1999 or rule adopted pursuant to it is a Class D crime for a 1st offense, a Class C crime for a 2nd offense and a Class B crime for a 3rd or subsequent offense.
9. It adds a provision that authorizes the Joint Standing Committee on Criminal Justice and Public Safety to meet during the 2005 legislative interim to review current laws governing the sentencing, registration, release and supervision of sex offenders and report out legislation to the Second Regular Session of the 122nd Legislature.
10. It repeals language made unnecessary by Public Law 2003, chapter 711, which redefined "sex offense" and defined the terms "another state" and "jurisdiction."
11. It gives the Department of Public Safety, State Bureau of Identification authority to adopt routine technical rules necessary to implement registration and notification practices.
12. It adds the duty of a registrant to give notification of the registrant's residence in Maine.
13. It specifies that only the State Bureau of Identification may maintain a sex offender registry on the Internet for purposes of public access. Law enforcement agencies may maintain their own sex offender registries for internal use only and may provide a link to the State bureau's Internet sex offender registry.
14. It clarifies the duration of registration for persons who come to Maine and were required to register pursuant to another jurisdiction's sex offender registration statute or who would have been required to register in that other jurisdiction if the person were domiciled there.
15. It allows a 10-year registrant to apply to the State Bureau of Identification for credit for time registered in another jurisdiction. The bureau may grant credit upon a registrant's providing documentation in accordance with rules adopted by the bureau.
16. It clarifies that a domicile verification form mailed by the State Bureau of Identification to the last known address provided by a registrant during the period that the registrant is required to register is deemed received 3 days after mailing unless returned to the bureau by postal authorities.

PUBLIC 431 An Act To Protect Incompetent Dependents

LD 1152

Sponsor(s)
BLANCHETTE

Committee Report
OTP-AM

Amendments Adopted
H-324

Public Law 2005, chapter 431 repeals and replaces the Class D crime of endangering the welfare of a dependent person with 2 crimes based on the defendant's culpable state of mind. A person who intentionally or knowingly endangers the welfare of a dependent person commits a Class C crime, and a person who recklessly endangers the welfare of a dependent person commits a Class D crime.

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PUBLIC 438 An Act To Make the 3rd Violation of OUI a Class C Crime

LD 462

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL MITCHELL	OTP-AM	S-77

Public Law 2005, chapter 438 increases from a Class D to a Class C the class of crime for a 3rd OUI offense within a 10-year period.

PUBLIC 441 An Act To Enhance Highway Safety

LD 232

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN DOW	OTP-AM	H-578

Under current law a person who operates a vehicle in a grossly negligent manner and causes the death of another person commits the Class A crime of manslaughter. If the person drives the vehicle with exactly the same kind of gross negligence but does not cause a death, the only crime available for prosecution is driving to endanger, a Class E crime, even if a person suffers significant and permanent injury. Public Law 2005, chapter 441 increases the sentencing level to Class C and imposes a motor vehicle license suspension period of not less than 180 days and not more than 2 years if the State both pleads and proves that the criminally negligent driving caused serious bodily injury.

PUBLIC 442 An Act To Make Illegal Possession of Certain Narcotic Drugs a Class C Crime

LD 812

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY A DAMON	OTP-AM	H-121

Public Law 2005, chapter 442 makes illegal possession of oxycodone, hydrocodone and hydromorphone a Class C crime.

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PUBLIC 444 An Act To Amend the Laws Governing Patronizing Prostitution of a Minor

LD 212

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH N	OTP-AM	H-321

Public Law 2005, chapter 444 creates a new Class C crime of patronizing prostitution of a minor. A person commits the Class C crime of patronizing prostitution of a minor if that person, in return for another's prostitution:

1. Gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person;
2. The person whose prostitution is sought has not yet attained 18 years of age; and
3. The person knows that the person whose prostitution is sought has not attained 18 years of age.

PUBLIC 447 An Act To Improve Sentencing for Serious Offenders

LD 970

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GREELEY	OTP-AM	H-474

Public Law 2005, chapter 447 makes the following changes to the sentencing laws.

1. It expands the list of violent crimes for which the classification may be increased for violent offenders to include assaults against law enforcement officers, corrections officers and emergency medical workers.
2. For purposes of determining economic loss that may be compensated by an order of restitution, it defines "critical investigation expense." "Critical investigation expense" includes those necessary expenses incurred by a public agency, person or organization while investigating or prosecuting suspected criminal conduct in cases involving embezzlement and drug investigations.

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PUBLIC 449 An Act Regarding Bail Conditions

LD 357

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GROSE STRIMLING	OTP-AM	H-322

Public Law 2005, chapter 449 amends the Bail Code by:

1. Allowing as a condition of bail that a person enter and remain in a long-term residential facility for substance abuse. A violation of this condition by a person whose underlying crime is punishable by a year or more in prison is a Class C crime; and
2. Authorizing a judge or justice to revoke the preconviction bail order of a bail commissioner and authorizing a judge or justice to revoke preconviction bail entered by another judge or justice of the same court.

PUBLIC 450 An Act To Amend the Crimes of Unlawful Sexual Contact and Unlawful Sexual Touching

LD 1249

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-325

Public Law 2005, chapter 450 expands the crimes of unlawful sexual contact and unlawful sexual touching by prohibiting a psychiatrist, psychologist or licensed social worker or a purported psychiatrist, psychologist or licensed social worker from engaging in sexual contact or sexual touching with a patient or client undergoing mental health therapy by the treating psychiatrist, psychologist or licensed social worker. This change makes the crimes of unlawful sexual contact and unlawful sexual touching consistent with the crime of gross sexual assault in 17-A MRSA, section 253, subsection 2, paragraph I.

P & S 4 An Act To Provide the Portland Harbor Commission with the Authority To Arrest

LD 351

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS BARTLETT	OTP-AM	H-98

Private and Special Law 2005, chapter 4 gives the Portland Harbor Commission the power to arrest, making its powers consistent with those of other harbor commissions around the State. Private and Special Law 2005, chapter 4 specifies that the Portland Harbor Commission harbor master not only enjoys all the authority of harbor master with general law, but is subject to all the same duties and liabilities of harbor masters.

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RESOLVE 40 **Resolve, Regarding Legislative Review of Chapter 15: Batterer**
EMERGENCY **Intervention Program Certification, a Major Substantive Rule of**
 the Department of Corrections

LD 1391

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

Resolve 2005, chapter 40 authorizes final adoption of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections.

Resolve 2005, chapter 40 was passed as an emergency measure effective May 20, 2005.

RESOLVE 99 **Resolve, Directing the Department of Health and Human Services,**
 Bureau of Health To Review Youth Camp Counselor Hiring
 Practices

LD 619

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW	OTP-AM	H-575
MAYO		

Resolve 2005, chapter 99 directs the Department of Health and Human Services, Bureau of Health, in cooperation with the Maine Coalition Against Sexual Assault, the Maine State Police, the Maine Youth Camping Association and the YMCA Alliance of Maine, to evaluate the effectiveness of the bureau's rules concerning camp counselor hiring practices to protect children attending youth camps from sexual abuse. No later than January 15, 2006, the Bureau of Health shall report its findings and any proposed recommendations regarding camp counselor hiring practices to protect children attending youth camps from sexual abuse to the Joint Standing Committee on Criminal Justice and Public Safety. Upon receiving the bureau's recommendations, the Joint Standing Committee on Criminal Justice and Public Safety may report out implementing legislation if necessary.

RESOLVE 101 **Resolve, Directing the Department of Corrections To Establish a**
 Pilot Project at the Department's Juvenile Correctional Facilities

LD 1376

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM	S-288
BLANCHETTE		

Resolve 2005, chapter 101 directs the Commissioner of Corrections to create a pilot project to determine the need for judicial review of the services provided to at-risk juveniles committed to a Department of Corrections juvenile facility. The commissioner shall determine criteria for participation in the pilot of up to 15 juveniles at each facility. The pilot project must include guardians ad litem at the Long Creek Youth Development Center recommended by a selection committee, appointed by the juvenile court and trained by the department. The pilot project must also include an advocate to work with selected juveniles at the Mountain View Youth Development Center. The advocate and guardians ad litem shall meet and work regularly with the juveniles, the

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parents, guardians or legal custodians and shall review the juveniles' assessments and treatment plans. Within 12 months the advocate and guardians ad litem shall prepare written reports regarding the services being provided to the juveniles. These reports must be provided to the juvenile court, the superintendents of the facilities and the parents, guardians or legal custodians of the juveniles. The resolve provides for judicial review of the reports and potential recommendations for amended services for juveniles, which the department may implement as it determines appropriate. The resolve also requires an evaluation of the pilot project with a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2008. The pilot project terminates on April 1, 2008 unless further legislative action is taken.

**RESOLVE 126 Resolve, To Establish the Task Force To Study Maine's Homeland
EMERGENCY Security Needs**

LD 1645

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM	H-714 DUPLESSIE
RICHARDSON J		S-290

Resolve 2005, chapter 126 creates the Task Force to Study Maine's Homeland Security Needs, which is composed of 11 members, including 6 Legislators and 5 members of the public who are not directly involved in homeland security or emergency preparedness. The task force is directed to review needs and preparedness, using a report from the Governor's Homeland Security Task Force as a beginning point. The task force also must look at ways to improve communications with the Legislature and the public regarding homeland security issues. The task force must hold at least 2 of its meetings outside Augusta to allow for public comment in different areas of the State. The task force is staffed and funded by the Maine Emergency Management Agency and is required to submit an interim report of its findings and recommendations to the Legislature by January 17, 2006 and a final report by December 15, 2006.

Resolve 2005, chapter 126 was passed as an emergency measure effective June 23, 2005.